

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|---|---|-----------------|
| HARTFORD CASUALTY INSURANCE COMPANY, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | |
| |) | |
| HEARTHWARE, INC. F/K/A IBC-HEARTHWARE, |) | No. 1:13-cv-105 |
| INC. AND D/B/A HEARTHWARE HOME |) | |
| PRODUCTS, INC.; and MORNINGWARE, INC. |) | |
| |) | |
| Defendants. |) | |
| <hr style="width: 45%; margin-left: 0;"/> | | |
| HEARTHWARE, INC. F/K/A IBC- |) | |
| HEARTHWARE, INC. AND D/B/A |) | |
| HEARTHWARE HOME PRODUCTS, INC., |) | |
| |) | |
| Counterclaim Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| HARTFORD CASUALTY INSURANCE |) | |
| COMPANY, |) | |
| |) | |
| Counterclaim Defendant. |) | |

JOINT MOTION TO DISMISS CASE PURSUANT TO SETTLEMENT

NOW COMES Plaintiff/Counterclaim Defendant, Hartford Casualty Insurance Company ("Hartford"), by and through its attorneys, Michael J. Duffy and Ashley L. Conaghan of TRESSLER LLP, and Defendant/Counterclaim Plaintiff, Hearthware, Inc. f/k/a IBC-Hearthware, Inc. and d/b/a Hearthware Home Products, Inc.'s ("Hearthware"), by and through its attorneys David Helms and Derick Albers of LEWIS, RICE & FINGERSH, L.C. and Joseph Vucko of HEARTHWARE, and in support thereof, state as follows:

1. On January 7, 2013, Hartford filed a Complaint for Declaratory Judgment seeking a declaration that Hartford owes no coverage obligation to Hearthware for the claims against Hearthware in a lawsuit entitled Morningware, Inc. v. Hearthware Home Products, Inc./IBC-Hearthware, Inc. v. Morningware, Inc., Case No. 09-cv-04348, currently pending in the Northern District of Illinois ("Morningware litigation") (See, Docket No. 1). On March 1, 2013, Hearthware filed its Answer and Counterclaim against Hartford. (See, Docket No. 12). The issues raised in the Counterclaim also concern whether there is coverage under the Hartford policies issued to Hearthware for the claims in the Morningware litigation.

2. Defendant Morningware, Inc. was named in Hartford's Complaint solely as an interested party to be bound by the Judgment. On March 28, 2013, Defendant Morningware, Inc. was dismissed without prejudice pursuant to stipulation. (See, Docket No. 21).

3. Hartford and Hearthware have reached a settlement in this case that resolves all claims in this case, including all claims in Hartford's Complaint and Hearthware's Counterclaim.

4. The parties are currently in the process of finalizing the settlement documents. The parties anticipate completing the documents in the next 30 days.

5. The parties request that this Court dismiss the case without prejudice with leave to reinstate the case until June 10, 2013 to allow the parties to complete the settlement documents. If a party does not seek to reinstate the case by June 10, 2013, the parties request that the case be dismissed with prejudice.

WHEREFORE, Plaintiff/Counterclaim Defendant Hartford Casualty Insurance Company and Defendant/Counterclaim Plaintiff Hearthware, Inc. f/k/a/ IBC-Hearthware, Inc. and d/b/a Hearthware Home Products, Inc. respectfully request that this Court dismiss the case without

prejudice with leave to reinstate until June 10, 2013 and if it is not reinstated by June 10, 2013,
that the case be dismissed with prejudice.

Respectfully submitted,

HARTFORD CASUALTY INSURANCE COMPANY

HEARTHWARE, INC. F/K/A IBC-HEARTHWARE, INC.
AND D/B/A HEARTHWARE HOME PRODUCTS, INC.

/s/ Ashley L. Conaghan

One of its Attorneys

/s/ Derick Albers

One of its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2013, I electronically filed the aforesaid document with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record in this case by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: /s/ Ashley L. Conaghan

One of the Attorneys for
Hartford Casualty Insurance Company

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